

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ECF CASE
08 CV 00488 (LBS)

NIPPON YUSEN KAISHA a.k.a. NYK LINE,

Plaintiff,
- against -

AMERICAN HERITAGE FURNITURE, INC.,

Defendant.

TURNOVER ORDER ADDRESSED TO
GARNISHEE, HSBC (USA) BANK

Enforcement of Judgment No. # 08,1299

WHEREAS, default judgment # 08,1299 was entered on July 23, 2008 in favor of plaintiff, NIPPON YUSEN KAISHA a.k.a. NYK LINE, against defendant, AMERICAN HERITAGE FURNITURE, INC., in the amount of \$23,271.61; and

WHEREAS, the judgment remains wholly unpaid; and

WHEREAS, garnishee, HSBC (USA) Bank, is holding \$16,895.00 belonging to the defendant pursuant to Process of Maritime Attachment and Garnishment issued and served in this action; and

WHEREAS, the said garnishee Bank consents to this Order,

NOW on the motion of plaintiff, it is:

ORDERED that:

- (1) This case be reopened for purposes of issuing this order. And,
- (2) Garnishee, HSBC (USA) Bank, immediately deliver and pay over to the plaintiff, in accordance with payment instructions to be given by plaintiff's attorneys, Cichanowicz Callan Keane Vengrow & Textor, LLP, the sum of \$16,895.00, that sum being less than the amount of the unpaid judgment. And

(3) After entry of this order, the case shall again be closed on the docket of this Court.

Dated: New York, New York

September ____, 2008

U.S.D.J.

ATTORNEY'S DECLARATION

JOSEPH De MAY, JR. declares that the following statement is true under the penalty of perjury:

1. I am an attorney at law admitted to practice before this Court, and a member of the firm of Cichanowicz Callan Keane Vengrow & Textor, LLP, attorneys for plaintiff in the above captioned matter. I am fully familiar with the facts and circumstances of this matter and I make this declaration on personal knowledge in support of plaintiff's application for a turnover order to aid in enforcement of a judgment of this Court.

2. *No prior application has been made for the relief sought herein.*

3. A default judgment, #08,1299 was entered on July 23, 2008 in favor of plaintiff, NIPPON YUSEN KAISHA a.k.a. NYK LINE, against defendant, AMERICAN HERITAGE FURNITURE, INC., in the amount of \$23,271.61. *See, copy attached.*

4. That judgment remains wholly unpaid.

5. Garnishee, HSBC (USA) Bank, advised me on or about March 18, 2008 that it was holding the sum of \$16,895.00 pursuant to process of maritime attachment and garnishment directed to property of the defendant in this district. That process had been issued in this action and duly served on the said garnishee bank.

6. On September 7, 2008, I spoke by telephone with Lakisha Jackson in the Legal Department of garnishee, HSBC (USA) Bank, who advised that the Bank was willing to turn

over the \$16,895.00 to plaintiff in partial satisfaction of the judgment, but required a turnover order to do so.

7. I have sent the garnishee, HSBC (USA) Bank, a copy of this application and it consents to the relief requested herein. *See, Exhibit B.*

WHEREFORE, plaintiff respectfully requests that this case be reopened for purposes of granting this application and that the prefixed turnover order be signed.

Dated: New York, NY, September 9, 2008

/s/ Joseph De May, Jr.
JOSEPH De MAY, JR. [JD-9105]

EXHIBIT A

ORIGINAL

9085/PMK
CICHANOWICZ, CALLAN, KEANE, VENGROW & TEXTOR, LLP
61 Broadway, Suite 3000
New York, New York 10006-2802
(212)344-7042
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7-23-08

NIPPON YUSEN KAISHA a.k.a. NYK LINE,

Plaintiff,
- against -

AMERICAN HERITAGE FURNITURE, INC.,

Defendant.

ECF CASE

08 CV 00488 (LBS)

DEFAULT JUDGMENT

#/ _____

Whereas, this action was commenced on January 18, 2008 by the filing of the Summons and Complaint;


Whereas, a copy of the Summons and Complaint having been personally served on defendant on February 7, 2008 by personal service on Norman Ruscette at defendant's business address, 8297 Champions Gate Blvd., #303, Champions Gate, Florida 33896;

Whereas, a proof of service was filed on April 16, 2008;

Whereas, the defendant has not answered the Complaint, and the time for answering the Complaint has expired;

Now on motion of the plaintiff it is hereby ORDERED, ADJUDGED AND DECREED:
That plaintiff have judgment against defendant in the liquidated amount of \$19,945.00 with interest at 9% per annum from September 11, 2006 on \$12,295.00 of the \$19,945.00, from February 26, 2007 on \$3,265.00 of the \$19,945.00, and from April 14, 2007 on \$4,385.00 of the

\$19,945.00, all interest totaling \$2,976.61, plus costs of \$350.00 for the Court's filing fee, amounting in all to \$23,271.61.

So ordered this 22 day of July,
2008

U.S.D.J. Patel

This document was entered on the docket
on _____.

EXHIBIT B

Joseph De May, Jr.

From: lakisha.k.jackson@us.hsbc.com
Sent: Tuesday, September 09, 2008 4:11 PM
To: Joseph De May, Jr.
Subject: Re: Our File: 9085/JDM - Nippon Yusen v. American Heritage, 08 CV 488 (LBS) (S.D.N.Y.) - Application for Turnover Order

Mr. De May

I have reviewed the attach application and HSBC Bank USA, NA has no objection to it's filing.

Lakisha K. Jackson
Operations Representative
Legal Paper Processing Department - 12th Floor One HSBC Center Buffalo, New York 14203
(716) 841-7526
Fax (716) 841-7651
Lakisha.Jackson@us.hsbc.com

"Joseph De May,
Jr."
<jdemay@cckvt.com To
> Lakisha K Jackson/HBUS/HSBC@HSBC02
cc
09/09/2008 03:33
PM Subject
Our File: 9085/JDM - Nippon Yusen
v. American Heritage, 08 CV 488
(LBS) (S.D.N.Y.) - Application for
Turnover Order

<<turnover-orde9085-r.pdf>> Dear Lakisha,

Attached is the application for a turnover order in the above captioned matter which we are filing with the Court. Please let me know if you have any objection.

Best regards,
Joe

Joseph De May, Jr.
Cichanowicz Callan Keane Vengrow & Textor, LLP
61 Broadway, Suite 3000
New York, NY 10006
212-344-7042 (T)
212-344-7285 (F)

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*****[attachment
"turnover-orde9085-r.pdf" deleted by Lakisha K Jackson/HBUS/HSBC]

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